

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

AT HUNTINGTON

UNITED STATES OF AMERICA,

Respondent,

V.

CRIMINAL NO. 3:05-00184-01
(CIVIL ACTION NO. 3:08-1108)

JOHN E. JACKSON, JR.,

Movant.

ORDER

This matter comes before the Court on motion of John E. Jackson, Jr., filed under the provisions of 28 U.S.C. § 2255, the response of the United States and a reply to the response filed by Jackson. In its response, the United States asserts that the motion is untimely; however, as is pointed out by movant in his reply, the response of the United States does not take account of the fact that his petition for writ of certiorari was denied by the Supreme Court on October 1, 2007. Jackson v. United States, 128 S.Ct. 211 (2007). Jackson's § 2255 motion was filed on September 18, 2008, well within the one year period of limitations.¹ The request of the United States for summary dismissal is, accordingly, denied.

The United States is, accordingly, **ORDERED** to answer the § 2255 motion within thirty (30) days in accordance with Rule 5, Rules Governing § 2255 Proceedings in the United States District Court. The United States shall include with its answer such records as would facilitate determination

¹Clay v. United States, 537 U.S. 522, 527 (2003) ("Finality attaches when this court ... denies a petition for a writ of certiorari.")

of the issues raised in the motion. Movant may, if he wishes, file a reply to the answer of the United States on or before thirty days from service of the answer by the United States.

The Clerk is directed to transmit a copy of this Order to movant and the United States Attorney for the Southern District of West Virginia.

ENTER: August 26, 2009



MAURICE G. TAYLOR, JR.
UNITED STATES MAGISTRATE JUDGE